

Appl. No: 10/663,496
Amdt. dated:
Reply to Office Action of: Dec. 21, 2004

REMARKS

Applicants respectfully submit that the amendments add no new matter and are fully supported by the application as originally filed.

Amendments to the Claims and Specification

Applicants have amended the specification on pages 6 and 7 as requested by the Examiner.

Applicants respectfully submit that the amendments merely correct obvious errors in the specification and add no new matter.

Claim Objections

Rejections under 35 U.S.C. §112

The Examiner has rejected Claim 27 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 27 has been cancelled.

Rejections under 35 U.S.C. §102(b)

The Examiner has rejected Claims 1, 2, 5, 10, 11, 26, 28, 29, and 31 under 35 U.S.C. §102(b) as being anticipated by Johnson, Sr. (U.S. Patent No. 3,753,267).

Claims 2, 5, and 29 have been cancelled.

For a proper rejection of a claim under section 102, the cited reference must disclose all elements, features, and steps of the claim. See e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988) (emphasis added).

Claim 1 has been amended to delete “a sponge” and add the limitation of “wherein said scrim includes a cleaning composition, said cleaning composition being dispersible in water.” Johnson, Sr. does not disclose all the elements of amended Claim 1.

Claim 28 has been amended to add the limitation of “wherein said scrim comprises a coloring agent and wherein said coloring agent achieves an equilibrium color change within approximately 30 seconds after said cleaning head is immersed in water.” Johnson, Sr. does not disclose all the elements of amended Claim 28.

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Claim 31 has been amended to delete “a sponge”. Applicants note that Johnson, Sr. does not teach the limitation of “said cleaning head being adapted to angularly articulate in the range of at least 25° - 35° relative to said handle without a substantial reduction in surface contact between said scrim and the surface.”

Thus, Johnson, Sr. does not teach each and every limitation of independent Claims 1, 28 or 31, and so fails to anticipate Claims 1, 10, 11, 26, 28, and 31. Applicants assert that Claims 1, 10, 11, 26, 28, and 31 are in condition for allowance.

The Examiner has rejected Claim 29 under 35 U.S.C. §102(b) as being anticipated by Bates (U.S. Patent No. 2,221,128), by Bolton (U.S. Patent No. 1,994,939), and Bennington (U.S. Patent No. 1,577,944).

Claim 29 has been cancelled.

Rejections under 35 U.S.C. §103(a)

The Examiner has rejected Claims 3, 4, 6, 7, 8, 9, 12, 13, 14, 22-25 under 35 U.S.C. §103(a) as being unpatentable over Johnson, Sr. (U.S. Patent No. 3,753,267).

Claims 3, 4, 6, 7, 8, and 9 have been cancelled.

The Examiner has rejected Claim 12 over Johnson, Sr. The Examiner contends that the scrim of Johnson, Sr. is disk-shaped and thus the Examiner presumably argues the shape and diameter of the scrim would be an obvious choice of design.

Johnson, Sr. describes a “cover 61” of a “porous material such as Mylar mesh which is bonded to the foam 60”. (col 2, lines 37-39). “The cover 61 ...permits the pad to move easily on the surface being scrubbed, while the foam 60 acts to hold the soap, detergent or other cleanser.” (col. 2, lines 38-43). Johnson, Sr. describes a pad where the foam holds detergent. The limitation of amended Claim 1, and thus Claim 12, is that the “scrim includes a cleaning composition, said cleaning composition being dispersible in water.” Johnson, Sr. neither teaches nor suggests a scrim including a cleaning composition. Claim 13 is likewise limited by amended Claim 1, so Johnson, Sr. would not apply.

The Examiner has rejected Claim 14 over Johnson, Sr. The Examiner contends that with regard to the “scrim”, “one of ordinary skill would be well aware of materials which are available for use in cleaning and that mere optimization through routine experimentation to suit the particular use does not constitute a patentable step.”

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The limitation of amended Claim 1, and thus Claim 14, is that the “scrim includes a cleaning composition, said cleaning composition being dispersible in water.” Johnson, Sr. neither teaches nor suggests a scrim including a cleaning composition.

The Examiner has rejected Claims 22 and 23 over Johnson, Sr. The Examiner contends that the “material of the sponge” “would be an obvious choice of design (such also being suggested at column 2, lines 32-33).”

Claims 22 and 23 are likewise limited by amended Claim 1, so Johnson, Sr. would not apply.

The Examiner has rejected Claims 24 and 25 over Johnson, Sr. The Examiner contends that with regard to the “fitment includes a substantially disk-shaped base”, “the particular dimensions thereof would be an obvious choice of design.”

Claims 24 and 25 are likewise limited by amended Claim 1, so Johnson, Sr. would not apply.

It is well settled law that in order to properly support an obviousness rejection under 35 U.S.C. § 103, there must have been some teaching **in the prior art** to suggest to one skilled in the art that the claimed invention would have been obvious. W. L. Gore & Associates, Inc. v. Garlock Thomas, Inc., 721 F.2d 1540, 1551 (Fed. Cir. 1983). More significantly,

The consistent criteria for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this [invention] should be carried out and would have a reasonable likelihood of success, viewed in light of the prior art. . . . **Both the suggestion and expectation of success must be founded in the prior art, not in the applicant’s disclosure . . .** In determining whether such a suggestion can fairly be gleaned from the prior art, the full field of the invention must be considered; for the person of ordinary skill in the art is charged with knowledge of the entire body of technological literature, including that which might lead away from the claimed invention.

(emphasis added) In re Dow Chemical Company, 837 F.2d 469, 473 (Fed. Cir. 1988).

In this regard, the applicant notes that the Examiner has not established that it would have been obvious to arrive at the “scrim including a cleaning composition” of the invention in the method of the invention in view of Johnson Sr. Accordingly, the objections to Claims 12, 13, 14, 22, 23, 24, and 25 are overcome and it is respectfully urged that they be withdrawn.

The Examiner has rejected Claims 1-7, 10, 11, 14, 22, 23, 26, 28, and 31 under 35 U.S.C. §103(a) as being unpatentable over Boulton (U.S. Patent No. 1,994,939) in view of Siemund (U.S. Patent No. 3,406,420).

Claims 2, 3, 4, 5, 6, and 7 have been cancelled.

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The Examiner notes that Boulton does not contain a scrim and that Siemund discloses a sponge cleaning member as well as a layer of scrim.

Claim 1 has been amended to delete “a sponge” and add the limitation of “wherein said scrim includes a cleaning composition, said cleaning composition being dispersible in water.” Boulton neither teaches nor suggests a scrim or a scrim including a cleaning composition. Siemund teaches a “mesh or netting covered sponge also stitched together along its longitudinal axis to form a pair of juxtaposed roll shaped sponges which can be used one at a time during the cleaning operation, whereby the sponge roll not being used provides an auxiliary reservoir of cleaning liquid should additional cleaning liquid be required in the cleaning and scraping operation.” (col. 1, line 68 to col. 2, line 2) Siemund does not teach a scrim including a cleaning composition.

The Examiner has rejected Claim 10 over Boulton in view of Siemund. The Examiner notes that “the scrim of Siemund is a polyester.” The limitation of amended Claim 1, and thus Claim 10, is that the “scrim includes a cleaning composition, said cleaning composition being dispersible in water.” As above, neither Boulton nor Siemund teach this limitation.

The Examiner has rejected Claim 14 over Boulton in view of Siemund. The Examiner contends that “the properties of the scrim would be an obvious design choice.” The limitation of amended Claim 1, and thus Claim 14, is that the “scrim includes a cleaning composition, said cleaning composition being dispersible in water.” As above, neither Boulton nor Siemund teach this limitation.

The Examiner has rejected Claims 22-23 over Boulton in view of Siemund. The Examiner contends that “the material of the fitment would be an obvious design choice.” The limitation of amended Claim 1, and thus Claims 22 and 23, is that the “scrim includes a cleaning composition, said cleaning composition being dispersible in water.” As above, neither Boulton nor Siemund teach this limitation.

The Examiner has rejected Claims 26, 28, and 31 over Boulton in view of Siemund without comment. The limitation of amended Claim 1, and thus Claim 26, is that the “scrim includes a cleaning composition, said cleaning composition being dispersible in water.” As above, neither Boulton nor Siemund teach this limitation.

Amended Claim 28 is now limited to “wherein said scrim comprises a coloring agent and wherein said coloring agent achieves an equilibrium color change within approximately 30

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seconds after said cleaning head is immersed in water.” Neither Boulton nor Siemund teach this limitation.

Amended Claim 31 contains the limitation “said cleaning head being adapted to angularly articulate in the range of at least 25° - 35° relative to said handle without a substantial reduction in surface contact between said scrim and the surface” Neither Boulton nor Siemund teach this limitation.

In addition to the arguments above, “[t]he PTO has the burden under section 103 to establish a *prima facie* case of obviousness. It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.” In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). The applicant asserts that this burden has not been satisfied. Accordingly, the objections to Claims 1, 10, 11, 14, 22, 23, 26, 28, and 31 are overcome and it is respectfully urged that they be withdrawn.

The Examiner has rejected Claims 15-21 and 30 under 35 U.S.C. §103(a) as being unpatentable over Johnson, Sr. (U.S. Patent No. 3,753,267) in view of Stima et al. (U.S. Patent No. 4,793,019).

The Examiner has rejected Claims 15-21 over Johnson, Sr. in view of Stima. The Examiner contends that “It is well known in the cleaning art to provide a cleaning composition within a cleaning member, such as taught by Stima. The provision of **any** cleaning composition which suits the particular intended use would be obvious to one having ordinary skill in the art.” (Examiner’s emphasis).

“Before the PTO may combine the disclosures of two or more prior art references in order to establish *prima facie* obviousness, there must be some suggestion for doing so, found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.” In re Jones, 21 U.S.P.Q.2d 1941, 1943-44 (Fed. Cir. 1992).

As stated succinctly by the Federal Circuit. “[I]f identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue.” In re Rouffet, 47 U.S.P.Q.2d 1453, 1457 (Fed. Cir. 1998). By stating that motivation to combine is supplied because the features of the dependent claims are “conventional in the art,” the Examiner is providing no more than “identification of each claimed element in the prior art.”

Claim 15 has been cancelled, however, its limitation has been incorporated into amended Claim 1. With regard to amended Claim 1, Stigma teaches “water from the sponge 18 passes

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through openings 40 to dissolve the detergent in the pad.” (col. 3, lines 57-59). The mop is Stigma requires that the pad containing the cleaning composition is attached to a sponge mop. The sponge holds water that activates the cleaning composition in the pad through specially designed holes. Amended Claim 1 does not require a sponge to hold water to activate the cleaning composition. Therefore, the cleaning mechanism of Stigma is different and does not teach or suggest the cleaning mechanism of amended Claim 1 or dependent Claims 16-21.

Claims 19 and 20 contain the additional limitation that a “coloring agent achieves an equilibrium color change within approximately 30 seconds after said cleaning head is immersed in water.” Neither Johnson, Sr. nor Stigma teach or suggest such a limitation.

The Examiner has rejected Claim 30 over Johnson, Sr. in view of Stima. The Examiner contends that “the prior art discloses the same general materials that are in the present application and the mere recitation of an obscure property fails to define over the prior art in that one could reasonably assume that the prior art structure at least comes close to the recited value.”

Amended Claim 30 contains the limitation “said scrim top surface being secured to said sponge fitment bottom surface, said scrim including a dispersible cleaning composition, said cleaning head having less than a 50% increase in resistive force between said scrim and the surface during dispersion of said cleaning composition.” Neither Johnson, Sr. nor Stima teach a scrim secured to a fitment bottom surface.

The Examiner has rejected Claim 27 under 35 U.S.C. §103(a) as being unpatentable over Bennington (U.S. Patent No. 1,577,944) in view of Siemund (U.S. Patent No. 3,406,420).

Claim 27 has been cancelled.

Applicants have not addressed the further rejections of dependent claims as being moot in view of the amendments and remarks herein. However, Applicants expressly do not acquiesce in the Examiner’s findings not addressed herein. Indeed, Applicants submit that the dependent claims recite further distinguishing and non-obvious features of particular utility.

CONCLUSIONS

In view of the foregoing amendments and remarks, Applicants submit that the application is in condition for allowance. If, however, some issue remains which the Examiner feels may be

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addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

In view of the foregoing amendments and remarks, Applicants request entry of the amendments and reconsideration of the rejections. If some issue remains which the Examiner feels may be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

Please charge any additional fees, including fees for additional extensions of time, or credit overpayment to Deposit Account No. 03 2270.

Respectfully submitted,
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Dated: June 13, 2005

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